PART IV

Section 1-A

CENTRAL BILLS AND REPORTS OF SELECT COMMITTEES THEREON

NOTIFICATION.

(LAW DEPARTMENT).

No. LAW 68 LCA 65, dated Bangalore, 22nd September 1965.

Ordered that the Employees' State Insurance (Amendment) Bill, 1965 (Central Bill No. 50 of 1965) which has been published in the *Gazette of India*, Extraordinary, Part II, Section 2, dated the 18th August, 1965, be republished in the *Mysore Gazette*, for general information.

By Order and in the name of the Governor of Mysore,

B. RAMACHANDRA RAO,
Under Secy. to Govt., I. & *L. D.*

LOK SABHA

The following Bill was introduced in Lok Sabha on the 18th August, 1965 :—

BILL No. 50 OF 1965

A Bill further to amend the Employees' State Insurance Act, 1948.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows :—

1. ***Short title, commencement and application.***—(*1*) This Act may be called the Employees' State Insurance (Amendment) Act, 1965.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and for different States or for different parts thereof.

(3) When the provisions of this Act amending the provisions of the Employees' State Insurance Act, 1948 (34 of 1948) (hereinafter referred to as the principal Act) relating to sickness and maternity benefits come into force in any State or any part of a State, then, those provisions of the principal Act as amended by this Act shall apply to any employee in that State or part only on (and not before) the expiry of the contribution period of such employee in force on the date of the coming into force of the said provisions of this Act.

2. *Amendment of section 2.*—In section 2 of the principal Act,—

(1) after clause (6), the following clause shall be inserted, namely:—

'(6*A*) "dependant" means any of the following relatives of a deceased insured person, namely:—

(*i*) a widow, a minor legitimate or adopted son, an unmarried legitimate or adopted daughter or a widowed mother; and

(*ii*) if wholly dependent on the earnings of the insured person at the time of his death, a legitimate or adopted son or daughter who has attained the age of eighteen years and is infirm;

(*iii*) if wholly or in part dependent on the earnings of the insured person at the time of his death,—

(*a*) a parent other than a widowed mother,

(*b*) a minor illegitimate son, an unmarried illegitimate daughter or a daughter legitimate or adopted or illegitimate if married and a minor or if widowed and a minor,

(*c*) a minor brother or an unmarried sister or a widowed sister if a minor,

(*d*) a widowed daughter-in-law,

(*e*) a minor child of a pre-deceased son,

(*f*) a minor child of a pre-deceased daughter where no parent of the child is alive, or

(*g*) a paternal grand-parent if no parent of the insured person is alive;';

(2) for clause (8), the following clause shall be substituted, namely:—

'(8) "employment injury" means a personal injury to an employee caused by accident or an occupational disease arising out of and in the course of his employment, being an insurable employment, whether the accident occurs or the occupational disease is contracted within or outside the territorial limits of India;';

(3) in clause (9),—

(*a*) for the words "but does not include— the following words shall be substituted, namely:—

"and includes any person employed for wages on any work connected with the administration of the factory or establishment or any part, department or branch thereof or with the purchase of raw materials for, or the distribution or sale of the products of, the factory or establishment; but does not include—"

(*b*) for sub-clause (*b*), the following sub-clause shall be substituted, namely:—

(*b*) "*any person so employed whose wages (excluding remuneration for overtime work) exceed five hundred rupees a month*:

Provided that an employee whose wages (excluding remuneration for overtime work) exceed five hundred rupees a month at any time after (and not before) the beginning of the contribution period, shall continue to be an employee until the end of that period;";

(4) in clause (11), the words "where the insured person is a male," shall be omitted;

(5) in clause (12),—

(*a*) in the first paragraph,—

(*i*) for the words "are working or were working", the words "are employed or were employed for wages" shall be substituted;

(*ii*) for the words and figures "Indian Mines Act, 1923", (4 of 1923) the words and figures "Mines Act, 1952" (35 of 1952) shall be substituted;

(*b*) in the second paragraph, the following shall be added at the end, namely :—

"and includes a factory which is engaged for a period not exceeding seven months in a year—

(*a*) in any process of blending, packing or repacking of tea or coffee ; or

(*b*) in such other manufacturing process as the Central Government may, by notification in the Official Gazette, specify" ;

(6) after clause (13), the following clause shall be inserted, namely :—

'(13A) "insurable employment" means an employment in a factory or establishment to which this Act applies ;';

(7) after clause (14), the following clauses shall be inserted, namely :—

'(14A) "managing agent" means any person appointed or acting as the representative of another person for the purpose of carrying on such other person's trade or business, but does not include an individual manager subordinate to an employer ;

(14B) "mis-carriage" means expulsion of the contents of a pregnant uterus at any period prior to or during the twenty-sixth week of pregnancy but does not include any mis-carriage, the causing of which is punishable under the Indian Penal Code (45 of 1860) ;';

(8) after clause (15), the following clause shall be inserted, namely :—

'(15A) "permanent partial disablement" means such disablement of a permanent nature, as reduces the earning capacity of an employee in every employment which he was capable of undertaking at the time of the accident resulting in the disablement :

Provided that every injury specified in Part II of the Second Schedule shall be deemed to result in permanent partial disablement ;

(15B) "permanent total disablement" means such disablement of a permanent nature, as incapacitates an employee for all work which he was capable of performing at the time of the accident resulting in such disablement ;

Provided that permanent total disablement shall be deemed to result from every injury specified in Part I of the Second Schedule or from any combination of injuries specified in Part II thereof where the aggregate percentage of the loss of earning capacity, as specified in the said Part II against those injuries, amounts to one hundred per cent. or more ;";

(9) in clause (21), for the word "work" occurring at the end, the words "doing the work which he was doing prior to or at the time of the injury" shall be substituted ;

(10) in clause (22), after the words "and includes", the words "any payment to an employee in respect of any period of authorized leave, lock-out, strike which is not illegal or lay-off and" shall be inserted ;

(11) for clause (24), the following clause shall be substituted, namely :—

"(24) all other words and expressions used but not defined in this Act and defined in the Industrial Disputes Act, 1947 (14 of 1947), shall have the meanings respectively assigned to them in that Act.".

3. *Insertion of new section 2A.*—In Chapter I of the principal Act, after section 2, the following section shall be inserted, namely :—

"2A. *Registration of factories and establishments.*—Every factory or establishment to which this Act applies shall be registered within such time and in such manner as may be specified in the regulations made in this behalf.".

4. *Amendment of section 4.*—In section 4 of the principal Act,—

(*a*) for clauses (*a*) and (*b*), the following clauses shall be substituted, namely :—

"(*a*) a Chairman to be nominated by the Central Government ;

"(*b*) a Vice-Chairman to be nominated by the Central Government ; ';

(*b*) in clause (*c*), the words "of whom at least three shall be officials of the Central Government" shall be omitted

(*c*) in clause (*h*), the word "and" occurring at the end shall be omitted ;

(*d*) for clause (*i*), the following clauses shall be substituted, namely :—

"(*i*) three members of Parliament of whom two shall be members of the House of the People (Lok Sabha) and one shall be a member of the Council of States (Rajya Sabha) elected respectively by the members of the House of the People and the members of the Council of States ; and

(*j*) the Director of the Corporation, *ex-officio*.'.

5. *Amendment of section* 5.—In section 5 of the principal Act,—

(*a*) in sub-section (1), for the words, brackets, letters and figure "the *ex-officio* members and members referred to in clauses '*c*), (*d*) and (*e*) of section 4,", the words, brackets, letters and figure ('the members referred to in clauses (*a*, (*b*, (*c*), (*d*) and (*e*) of section 4 and the *ex-officio* member," shall be substituted ;

(*b*) in sub-section (2), for the brackets, letters and word "(*c*, (*d*, and *e*)", the brackets, letters and word "(*a*), (*b*), (*c*), (*d* and (*e*)" shall be substituted.

6. *Substitution of new section for section* 7.—For section 7 of the principal Act, the following section shall be substituted, namely :—

"7. *Authentication of orders, decisions, etc.*—All orders and decisions of the Corporation shall be authenticated by the signature of the Director General of the Corporation and all other instruments issued by the Corporation shall be authenticated by the signature of the Director General or such other officer of the Corporation as may be authorised by him.".

7. *Amendment of section* 8.—In section 8 of the principal Act,—

(*a*) in clause (*b*), for the words "being officials of the Central Government, nominated by that Government", the words "nominated by the Central Government" shall be substituted ;

(*b*) in clause (*c*),—

(*i*) for the word "six", the word "eight shall be substituted;

(*ii*) in sub-clauses (*ii*) and (*iii*), for the word "two", the word "three" shall be substituted;

(*c*) after clause (*c*), the following clause shall be inserted, namely:—

"(*d*) the Director General of the Corporation, *ex officio*."

8. *Amendment of section 10.*—In section 10 of the principal Act, to sub-section (2), the following proviso shall be added namely:—

"Provided that a member of the Medical Benefit Council shall, notwithstanding the expiry of the said period of four years continue to hold office until the nomination of his successor is notified.".

9. *Amendment of section 12.*—In section 12 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) A person referred to in clause (*i*) of section 4 shal cease to be a member of the Corporation when he ceases to be a member of Parliament."

10. *Amendment of section 16.*—In section 16 of the principal Act, in sub-section (3), after the words "the Central Government", the words "and of the Corporation" shall be inserted.

11. *Amendment of section 17.*—In section 17 of the principal Act,—

(*a*) in sub-section (3), for the worbs "posts carrying a maximum monthly pay of five hundred rupees and above", the words and figures "posts corresponding to Class I or Class II posts under the Central Government" shall be substitutd;

(*b*) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) If any question arises whether a post corresponds to a Class I or Class II posts under the Central Government, the question shall be referred to thatGovernment whose decision thereon shall be final.".

12. *Omission of section 21 and 31.*—Sections 27 and 31 of the principal Act shall be omitted.

13. *Amendment of section 36.*—In section 36 of the principal Act, after the words "the audited accounts of the Corporation", the words and figures "together with the auditor's report threeon under seetion 34" shall be inserted.

14. *Amendment of section 41.*—In section 41 of the principal Act, the *Explanation* occurring at the end shall be omitted.

15. *Amendment of section 42.*—In section 42 of the principal Act,—

(*a*) in sub-section (*1*), for the words "one rupee", the words "one rupee and fifty paise" shall be substituted;

(*b*) in sub-section (2), for the words "during the whole or part of which an employee is employed" occurring at the end, the words "in respect of the whole or part of which wages are payable to the employee and not otherwise" shall be substituted;

(c) sub sections (4) and (5) shall be omitted.

16. *Amendment of Section 43.*—In section 43 of the principal Act, after clause (b), the following clause shall be inserted, namely :—

"(*bb*) the date by which evidence of contributions having been paid is to be received by the Corporation ;".

17. *Insertion of new sections 45A and 45B* —In Chapter IV of the principal Act, after section 45, the following sections shall be inserted, namely :—

"45A *Determination of contributions in certain cases.*—(1) Where in respect of a factory or establishment no returns, particulars, registers or records are submitted, furnished or maintained in accordance with the provisions of section 44 or any Inspector or other official of the Corporation referred to in sub-section (2) of section 45 is obstructed by the principal or immediate employer or any other person, in exercising his functions or discharging his duties under section 45, the Corporation may on the basis of information available to it, by order, determine the amount of contributions payabel in respect of the employees of that factory or establishment.

(2) An order made by the Corporation under sub-section (*1*) shall be sufficient proof of the claim of the Corporation under section 75 or for recovery of the amount determined by such order as an arrear of land revenue under section 45B.

45B. *Recovery of contributions.*—Any contribution payable under this Act may be recovered as an arrear of land revenue.".

18. *Amendment of section 46.*—In section 46 of the principal Act, in sub-section (*1*),—

(*a*) for the words "or, as the case may be, their dependants the words "their dependants or the persons hereinafter mentioned, as the case may be," shall be substituted;

(*b*) in clause (*a*), after the words "medical practitioner'. the following words shall be inserted, namely:—

"or by any other person possessing such qulifications and experience as the Corporation may, by regulations, specify in this behalf";

(*c*) for clause (*b*), the following clause shall be substituted namely :—

"(*b*) periodical payments to an insured woman in case of confinement or mis-carriage or sickness arising out of pregnancy, confinement, premature birth of child or mis-carriage, such woman being certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as maternity benefit);";

(*d*) in clause (*d*), the word "and" occurring at the end shall be omitted ;

(*e*) in clause (*e* the word "and" shall be inserted at the end and after that clause, t e following clause shall be inserted, namely:—

"(*f*) payment to the eldest surviving member of the family of an insured person who has died, towards the expenditure on the funeral of the deceased insured person, or, where the insured person did not have a family or was not living with his family at the time of his death, to the person who actually incurs the expenditure on the funeral of the deceased insured person (to be known as funeral benefit) :

Provided that the amount of such payment shall not exceed one hundred rupees and the claim for such payment shall be made within three months of the death of the insured person or within such extended period as the Corporation or any officer or authority authorised by it in this behalf may allow.''.

19. Substitution of new section for section 47.—For section 47 of the principal Act, the following section shall be substituted, namely :—

"47. *When person eligible for sickness benefit.*—A person shall be qualified to claim sickness benefit for sickness occurring during any benefit period, if during the corresponding contribution period, weekly contributions in respect of him were payable for not less than thirteen weeks :

Provided that a person shall be qualified to claim sickness benefit for sickness occurring during the first benefit period, if during the corresponding contribution period weekly contributions in respect of him were payable for not less than half the number of weeks of that contribution period, ending in that period.".

20. *Omission of section 48.*—Section 48 of the principal Act shall be omitted.

21. *Amendment of section 49.*—In section 49 of the principal Act,—

(*a*) for the words "Second Schedule" the words "First Schedule" shall be substituted ;

(*b*) in the first proviso, for the words" for an initial waiting period of two days", the words "for the first two days of sickness" shall be substituted

(*c*) for the second proviso, the following proviso shall be substituted, namely:—

"Provided further that sickness benefit shall not be paid to any person for more than fifty-six days in any two consecutive benefit periods.".

22. *Amendment of section 50.*—Insection 50 of the principal Act,—

(*a*) in sub-section (1),—

(*i*) for the words and figures "two-thirds of the number of weeks during which she shall be deemed to have been available for employment within the meaning of section 48, subject to a minimum of twelve contributions", the words " thirteen weeks" shall be substituted ;

(*ii*) for the proviso, the following proviso shall be substituted, namely :—

"Provided that an insured woman shall be qualified to claim maternity benefit for a confinement occurring or expected to occur during the first benefit period, if during the corresponding contribution period weekly contributions in respect of her were payable for not less than half the number of weeks of that contribution period ending in that period.";

(*b*) in sub-section (2),—

(*i*) for the word, brackets and figure "sub-section (3)", the words "the First Schedule"shall be substituted;

(*ii*) the following proviso shall be inserted at the end, namely:—

"Provided that where the insured women dees during her confinement or during the period of six weeks immediately following her confinement for which she is entitled to maternity benefit, leaving behind in either case the child, maternity benefit shall be paid for the whole of that period but if the child also dies during the said period, then, for the days up to and including the day of the death of the child, to the person nominated by the insured woman in such manner as may be specified in the regulations and if there is no such nominee to her legal representative." ;

(c) for sub-section (3), the following sub-sections shall be substituted, namely :—

" (3) An insured woman who is qualified to claim maternity benefit in accordance with sub-section (1) shall, in case of mis-carriage, be entitled, on production of such proof as may be required under the regulations, to maternity benefit at the rates specified in the First Schedule for all days on which she does not work for remuneration during a period of six weeks immediately following the date of her mis-carriage.

(4) An insured woman who is qualified to claim maternity benefit in accordance with sub-section (1) shall, in case of sickness arising out of pregnancy, confinement, premature birth of child or mis-carriage shall, on production of such proof as may be required under the regulations, be entitled, in addition to the maternity benefit payable to her under any other provisions of this Act for all days on which she does not work for remuneration, to maternity benefit at the rates specified in the First Schedule for all days on which she does not work for remuneration during an additional period not exceeding one month.".

23. *Substitution of new sections for section 51.*—For section 51 of the principal Act, the following sections shall be substituted, namely :—

'51. *Disablement benefit.*—Subject to the provisions of this Act and the regulations, if any,—

(*a*) a person who sustains temporary disablement for not less than three days (excluding the day of accident) shall be entitled to periodical payment for the period of such disablement in accordance with the provisions of the First Schedule ;

(*b*) a person who sustains permanent disablement, whether total or partial, shall be entitled to periodical payment for such disablement in accordance with the provisions of the First Schedule.

Provided that where permanent disablement, whether total or partial, has been assessed provisionally for a limited period or finally, the benefit provided under this clause shall be payable for that limited period or as the case may be, for life.

51 A. *Presumption as to accident arising in course of employment.*—For the purposes of this Act, an accident arising in the course of an insured person's employment shall be presumed, in the absence of evidence to the contrary. also to have arisen out of that employment.

51 B. *Accidents happening while acting in breach of regulations, etc.*—An accident shall be deemed to arise out of and in the course of an insured person's employment notwithstanding that he is at the time of the accident acting in contravention of the

provisions of any law applicable to him, or of any orders given by or on behalf of his employer or that he is acting without instructions from his employer, if—

(*a*) the accident would have been deemed so to have arisen had the act not been in contravention as aforesaid or without instructions from his employer, as the case may be, and

(*b*) the act is done for the purpose of and in connection with the employer's trade or business.

51 C. *Accidents happening while travelling in employers transport.*—(1) An accident happening while an insured person is, with the express or implied permission of his employer, travelling as a passenger by any vehicle to or from his place of work shall, notwithstanding that he is under no obligation to his employer to travel by that vehicle, be deemed to arise out of and in the course of his employment, if—

(*a*) the accident would have been deemed so to have arisen had been under such obligation; and

b) at the time of the accident, the vehicle—

(*i*) is being operated by or on behalf of his employer or some other person by whom it is provided in pursuance of arrangements made with his employer, and

(*ii*) is not being operated in the ordinary course of public transport service.

(2) In this section "vehicle" includes a vessel and an aircraft.

51D *Accidents happening while meeting emergency.*—An accident happening to an insured person in or about any premises at which he is for the time being employed for the purpose of his employ's trade or business shall be deemed to arised out of and in the course of his employment, if it happens while he is taking steps, on an actual or supposed emergency at those premises, to rescue, succour or protect persons who are, or are thought to be or possibly to be, injured or imperilled, or to avert or minimise serious damage to property.'

24. *Substitution of new sections for section 52.*—For section 52 of the principal Act, the following secttions shall substituted namely:—

'52 *Dependants benefit.*—(1) If an insured person dies as a result of an employment injury sustained as an employee under this Act, whether or not he was in receipt of any periodical payment for the temporary disablement in respect of the injury dependants' benefit shall be payable in accordance with the provisions of the First Schedule to his dependants specified in sub-clause (i) and sub clause (ii) of clause (6A) of section 2.

(2) In case the insured person dies without leaving behind him the dependants as aforesaid, the dependants' benefit shall be paid to the other dependants of the deceased in accordance with the provisions of the First Schedule.

Occupational disease.—52A. (1) If an employee employed in any employment specified in Part A of the Third Schedule contracts any disease specified therein as an occupational disease peculiar to that employment, of if an employee employed in the employment specified in Part B of that Schedule for a continuous period or not less than six months contracts any disease specified therein as an occupational disease peculiar to that employment or if an employee employed in any employment specified in Part C of that Schedule for such continuous period as the Corporation may specify in respect of each such employment, contracts any disease specified therein as an occupational disease peculiar to that employment the contracting of the disease shall, unless the contrary is proved, be deemed to be an "employment injury" arising out of and in the course of employment.

(2) (i) Where the Central Government or a State Government, as the case may be, adds any description of employment to the employments specified in Schedule III to the Workmen's Compensation Act, 1923 (8 of 1923) by virtue of the powers vested in it under sub-section (3) of section 3 of the said Act, the said description of employment and the occupational diseases specified under that sub-section as peculiar to that description of employment shall be deemed to form part of the Third Schedule.

(ii) Without prejudice to the provisions of clause (*i*), the Corporation after giving, by notification in the Official Gazette, not less than three months' notice of its intention so to do, may, by a like notification, add any description of employment to the employments specified in the Third Schedule and shall specify in the case of employments so added the diseases which shall be deemed for the purposes of this section to be occupational diseases peculiar to those employments respectively and thereupon the provisions of this Act shall apply, as if such diseases had been declared by this Act to be occupational diseases peculiar to those employments.

(3 Save as provided by sub-sections (1) and (2), no benefit shall be payable to an employee in respect of any disease unless the disease is directly attributable to a specific injury by accident arising out of and in the course of his employment.

(4) The provisions of section 51A shall not apply to the cases to which this section applies".

Substitution of new section for section 53.—25. For section 53 of the principal Act, the following section shall be substituted, namely:—

Bar against receiving or recovery of compensation or damages under any other law.

"53. An insured person or his dependants shall not be entitled to receive or recover, whether from the employer of the insured person or from any other person, any compensation or damages under the Workmen's Compensation Act, 1923, (8 of 1923) or any other law for the time being in force or otherwise, in respect of an employment injury sustained by the insured person as an employee under this Act.".

26. *Substitution of new sections for section 54.*—For section 54 of the principal Act, the following sections shall be substituted, namely :—

'54. *Determination of question of disablement.*—Any question—

(*a*) whether the relevant accident has resulted in permanent disablement; or

(*b*) whether the extent of loss of earning capacity can be assessed provisionally or finally ; or

(*c*) whether the assessment of the proportion of the loss of earning capacity is provisional or final ; or

(*d*) in the case of provisional assessment, as to the period for which such assessment shall hold good, shall be determined by a medical board constituted in accordance with the provisions of the regulations and any such question shall hereafter be referred to as the "disablement question"

54A. *References to medical boards and appeals to medical appeal tribunals and Employees' Insurance Courts.*—(1) The case of any insured person for permanent disablement benefit shall be referred by the Corporation to a Medical Board or determination of the disablement question and if on that or any subsequent reference, the extent of loss of earning capacity of the insured person is provisionally assessed, it shall again be so referred to the Medical Board not later than the end of the period taken into account by the provisional assessment.

(2) If the insured person or the Corporation is not satisfied with the decision of the Medical Board, the insured person or the Corporation may appeal in the prescribed manner and within the prescribed time to—

(*i*) the medical tribunal constituted in accordance with the provisions of the regulations with a further right of appeal in the prescribed manner and within the prescribed time to the Employees' Insurance Court, or

(*ii*) the Employees' Insurance Court directly .'.

27. *Substitution of new sections for section 55.*—For section 55 of the principal Act, the following sections shall be substituted, namely :—

"55. *Review of decisions by Medical Board or medical appeal tribunal.*—(1) Any decision under this Act of a Medical Board or a medical appeal tribunal may be reviewed at any time by the Medical Board or the medical appeal tribunal, as the case may be, if it is satisfied by fresh evidence that the decision was given in consequence of the non-disclosure or misrepresentation by the employee or any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent).

(2) Any assessment of the extent of the disablement resulting from the relevant employment injury may also be reviewed by a medical board, if it is satisfied that since the making of the assessment there has been a substantial and unforeseen aggravation of the results of the relevant injury:

Provided that an assessment shall not be reviewed under this sub section unless the medical board is of opinion that having regard to the period taken into account by the assessment and the probable duration of the aggravation aforesaid, substantial injustice will be done by not reviewing it.

(3) Except with the leave of a medical appeal tribunal, an assessment shall not be reviewed under sub-section (2) on any application made less than five years, or in the case of a provisional assessment, six months from the date thereof and on such a review the period to be taken into account by any revised assessment shall not include any period before the date of the application.

(4) Subject to the foregoing provisions of this section, a medical board may deal with a case of review in any manner in which it could deal with it on an original reference to it, and in particular may make a provisional assessment notwithstanding that the assessment under review was final: and the provisions of section 54A shall apply to an application for review under this section and to a decision of a medical board in connection with such application as they apply to a case for disablement benefit under that section and to a decision of the medical board in connection with such case.

55A. *Review of dependants' benefit.*—(1) Any decision awarding dependants' benefit under this Act may be reviewed at any time by the Corporation f it is satisfied by fresh evidence that the decision was given in consequence of non-disclosure or misrepresentation by the claimant or any other person of a material fact (whether the non-disclosure or misrepresentation was or was not fraudulent) or that the decision is no longer in accordance with this Act due to any birth or death or due to the marriage, re-marriage or cesser of infirmity of, or attainment of the age of eighteen years by a claimant.

(2) Subject to the provisions of this Act, the Corporation may, on such review as aforesaid direct that the dependants' benefit be continued, increased, reduced or discontinued.".

28. *Insertion of new section 59A.*—After section 59 of the principal Act, the following section shall be inserted, namely:—

"59A. *Provision of medical benefit by the Corporation in lieu of State Government.*—(*1*) Notwithstanding anything contained in any other provision of this Act, the Corporation may, in consultation with the State Government, undertake the responsibility for providing medical benefit to insured persons and where such medical benefit is extended to their families, to the families of such insured persons in the State subject to the condition that the State Government shall share the cost of such medical benefit in such proportion as may be agreed upon between the State Government and the corporation.

(2) In the event of the Corporation exercising its power under sub-section (1), the provisions relating to medical benefit under this Act shall apply, so far as may be, as if a reference therein to the State Government were a reference to the Corporation.".

29. *Omission of sections 66 and 67.*— Sections 66 and 67 of the princpal Act shall be omitted.

30. *Amendment of section 71.*— In section 71 of the principal Act, for the words "If a person dies,, the words, brackets and figures "Except as provided in the proviso to sub-section (2) of section 50, if a person dies" shall be substituted.

31. *Omission of section 73H.*—Section 73H of the principal Act, shall be omitted.

32. *Amendment of section 75.*—In section 75 of the principal Act,—

(*a*) in sub-section (*1*),—

(*i*) for clause (*ee*), the following clause shall be substituted, namely:—

(*ee*) any direction issued by the Corporation under section 55A on a review of any payment of dependants, benefits, or"

(*ii*) clause (*f*) shall be omitted;

(*iii*) in clause (*g*), the following words shall be inserted at the end, namely:—
"or any other matter required to be or which may be decided by the Employees' Insurance Court under this Act";

(*iv*) after the words "such question or dispute" the words, brackets, figure and letter "subject to the provisions of sub-section (2*A*)" shall be inserted;

(b) in sub-section (2),—

(*i*) for the words "The following claims", the words, brackets, figure and letter "Subject to the provisions of sub-section (2*A*), the following claims" shall be substituted;

(*ii*) clause (c) shall be omitted;

(*c*) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2*A*) If in any proceedings before the Employees' Insurance Court a disablement question arises and the decision of a medical board or a medical appeal tribunal has not been obtained on the same and the decision of such question is necessary for the determination of the claim or question before the Employees' Insurance Court, that Court shall direct the Corporation to have the question decided by this Act, and shall thereafter proceed with the determination of the claim or question before it in accordance with the decision of the medical board or the medical appeal tribunal, as the case may be, except where an appeal has been filed before the Employees' Insurance Court under sub section (2) of section 54A in which case the Employees' Insurance Court may itself determine all the issues arising before it."

(*d*) in sub-section (3), for the words "the Employees' Insurance Court", the words "a Medical Board, or by a Medical Appeal Tribunal or by the Employees' Insurance Court" shall be substituted.

33. *Amendment of section* 77.—In section 77 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:

"(*1A*) Every such application shall be made within a period of three years from the date on which the cause of action arose.

Explanation.—For the purpose of this sub-section,—

(*a*) the cause of action in respect of a claim for benefit shall not be deemed to arise unless the insured person or in the case of dependants' benefit, the dependants of the insured person claims or claim that benefit in accordance with the regulations made in that behalf within a period of twelve months after the claim became due or, within such further period as the Employees' Insurance Court may allow on grounds which appear to it to be reasonable ;

(*b*) the cause of action in respect of a claim by the Corporation for recovering contributions from the principal employer or a claim by the principal employer for recovering contributions from an immediate employer shall not be deemed to arise till the date by which the evidence of contributions having been paid is due to be received by the Corporation under the regulations."

34. *Omission of Section 80.*—Section 80 of the principal Act shall be omitted.

35. *Amendment of Section 86.*—In Section 86 of the principal Act, in sub-section (1), for the words "Central Government", the words "Director General of the Corporation" shall be substituted.

36. *Amendment of Section 90.*—In section 90 of the principal Act,—

(*a*) after the words "The appropriate Government may,", the words "after consultation with the Corporation," shall be inserted ;

(*b*) after the words "local authority", the words "from the operation of this Act" shall be inserted.

37. *Insertion of new section 91A*—After section 91 of the principal Act, the following section shall be inserted, namely :—

"91A. *Exemptions to be either prospective or retrospective.*—Any notification granting exemption under section 87, section 88, section 90 or section 91 may be issued so as to take effect either prospectively or retrospectively on such date as may be specified therein.".

38. *Amendment of section 95.*—In section 95 of the principal Act,—

(*a*) in sub-section (1), after the words "the Central Government may,", the words "after consultation with the Corporation and" shall be inserted ;

(*b*) in sub-section (2), after clause (*e*), the following clause shall be inserted, namely :—

"(*ee*) the manner in which and the time within which appeals may be filed to Medical Appeal Tribunals or Employees' Insurance Courts;";

(*c*) after sub-section (3), the following sub-section shall be inserted, namely :—

"(4) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

39. *Amendment of section 96.*—In section 96 of the principal Act, in sub-section (1), after the words "The State Government may,", the words "after consultation with the Corporation and" shall be inserted,

40. *Amendment of section 97.*—In section 97 of the principal Act, in sub-section (2),—

"(*a*) after clause (*i*), the following clause shall be inserted namely :—

"(*ia*) the time within which and the manner in which a factory or establishment shall be registered ;" ;

(*b*) after clause (*iii*), the following clause shall be inserted namely :—

"(*iiia*) the levy of interest at a rate not exceeding six per cent per annum on contributions due but not paid ;";

(*c*) for clause (*vi*), the following clause shall be substituted, namely :—

"(*vi*) the method of determining whether an insured person is suffering from one or more of the diseases specified in the Third Schedule ;";

(*d*) in clause (viii), for the words "and the form in which", the words "and the form and manner in which" shall be substituted ;

(*e*) after clause (xii), the following clauses shall be inserted, namely ;

"(*xiia*) specifying the authority competent to give certificate of eligibility for maternity benefit ;

(*xiib*) the manner of nomination by an insured woman for payment of maternity benefit in case of her or her child's death ;

(*xiic*) the production of proof in support of claim for maternity benefit or additional maternity benefit ;";

(*f*) after clause (xvi), the following clauses shall be inserted, namely :—

"(*xvia*) the qualifications and experience which a person should possess for giving certificate of sickness ;

(*xvib*) the constitution of medical boards and medical appeal tribunals ;".

41. *Insertion of new section 99A.*—After section 99 of the principal Act, the following section shall be inserted, namely:—

"99A. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions or give such directions, not inconsistent with the purposes of this Act, as appears to it to be necessary or expedient for removing the difficulty.

(2) Any order made under this section shall have effect notwithstanding anything inconsistent therewith in any rules or regulations made under this Act.".

42. *Substitution of new Schedules for Schedules I and II.*—For Schedules I and II of the principal Act, the following Schedules shall be substituted, namely:—

THE FIRST SCHEDULE

(*See* sections 39, 49, 50, 51 and 52)

1. The amount of weekly contribution payable in a contribution period in respect of an employee shall be calculated with reference to the average daily wages during the first wage period in respect of that employee ending in such contribution period:

Provided that where an employee changes his employment during the currency of the contribution period, contributions in respect of him shall continue to be calculated during the said contribution period at the rate at which they were being paid in the first employment except when the employee does not disclose the earlier employment to the second or subsequent employer in which case they may be calculated with reference to the average daily wages during the first wage period in the latter employment.

2. The average daily wages shall be—

(*a*) in respect of an employee who is employed on time-rate basis, the amount of wages which would have been payable to him for the complete wage period had he worked on all the working days in that wage period, divided by 26 if he is monthly rated, 13 if he is fortnightly rated, 6 if he is weekly rated and 1 if he is daily rated;

(*b*) in respect of an employee employed on any other basis, the amount of wages earned during the first complete wage period in the contribution period divided by the number of days in full or part for which he worked for wages in that wage period :

Provided that where an employee receives wages without working on any day during such wage period, he shall be deemed to have worked for 26, 13, 6 or 1 days or day if the wage period be a month, a fortnight, a week or a day respectively.

Explanation I.—Where any night shift continues beyond midnight, the period of the night shift after midnight shall be counted for reckoning the days worked as part of the day preceding.

Explanation II.—"Wage period" means the period in respect of which wages are ordinarily payable whether in terms of the contract of employment, express or implied or otherwise.

3. (*a*) For the purpose of fixing the amount of weekly contribution payable, employees shall be divided into nine groups on the basis of their average daily wages ascertained in the manner specified in paragraph 2.

(b) The employee's contribution and employer's contribution payable in respect of the group of employees specified in the first column of the Table below shall be at the rates respectively specified in the corresponding entries in the second and third columns thereof.

(c) The daily rate of benefit (hereinafter referred to as the "standard benefit rate") in respect of the group of employees specified in the first column of the Table below shall be the amount respectively specified in the corresponding entry in the fifth column thereof :

Provided that where a person has been in more than one of the groups as specified in the first column of the said Table during a contribution period, the standard benefit rate in respect of him shall be the amount specified in the fifth column corresponding to the lowest of such groups.

TABLE

Group of Employees whose average daily wages are	Employees' weekly contribution (recoverable from employees)	Employer's weekly contribution	Total weekly contribution (employee's and employer's contribution)	Corresponding daily standard benefit rate
1	2	3	4	5
	P	P	P	P
1 Below Re. 1	Nil	45	45	45
" Re. 1 and above but below Rs 1·50	Nil	45	45	65
3 Rs. 1·50 and above but below Rs. 2	25	50	75	90
4 Rs. 2 and above but below Rs. 3	40	80	120	130
5 Rs. 3 and above but below Rs. 4	50	100	150	175
6 Rs. 4 and above but below Rs. 6	70	140	210	250
7 Rs 6 and above but below Rs. 8	95	190	285	350
8 Rs 8 and above but below Rs. 15	125	250	375	500
9 Rs 15 and above	175	350	525	850

4. The daily rate of sickness benefit in respect of a person during any benefit period shall be the standard benefit rate corresponding to the average daily wages of that person during the corresponding contribution period.

5. The daily rate of maternity benefit payable in respect of confinement occurring or expected to occur during any benefit period, shall be equal to twice the standard benefit rate corresponding to the average daily wages in respect of the insured woman during the corresponding contribution period.

6. (*a*) The daily rate of disablement and dependants' benefit shall be the rate, twenty-five per cent, more than the standard benefit rate rounded to the next higher multiple of five paise corresponding to the average daily wages in the contribution period corresponding to the benefit period in which the employment injury occurs.

(*b*) Where an employment injury occurs before the commencement of the first benefit period in respect of a person, the daily rate of disablement and dependants' benefit shall be—

(*i*) where a person sustains employment injury after the expiry of the first wage period in the contribution period in which the injury occurs, the rate, twenty five per cent, more than the standard benefit rate rounded to the next higher multiple of five paise corresponding to the wage group in which his average daily wages during that wage period fall ,

(*ii*) where the person sustains employment injury before the expiry of the first wage period in the contribution period in which the injury occurs, the rate, twenty five per cent more than the standard benefit rate, rounded to the next higher multiple of five paise corresponding to the group in which wages actually earned or which would have been earned had he worked for a full day on the date of accident, fall.

6. The disablement or dependants' benefit rate calculated as aforesaid shall be called the "full rate".

7. The disablement benefit shall be payable to the insured person as follows :—

(*a*) for temporary disablement, at the full rate ;

(*b*) for permanent total disablement, at the full rate ,

(*c*) for permanent partial disablement resulting from an injury specified in Part II of the Second Schedule, at such percentage of the full rate which would have been payable in the case of permanent total disablement as is specfied in the said Schedule as being the percentage of the loss of earning capacity caused by that injury ;

(*d*) for permanent partial disablement resulting from an injury not specified in Part II of the Second Schedule, at such percentage of the full rate payable in the case of permanent total disablement as is proportionate to the loss of earning capacity permanently caused by the injury.

Explanation.—Where more injuries than one are caused by the same accident, the rate of benefit payable under clauses (*c*) and (*d*) shall be aggregated but not so in any case as to exceed the full rate ;

(*e*) in cases of disablement not covered by clauses (*a*), (*b*), (*c*) and (*d*) at such rate not exceeding the full rate, as may be provided in the regulations.

8. In the case of death of the insured person, the dependants' benefit shall be payable to his widow and children as follows:—

(*a*) to the widow during life or until remarriage, an amount equivalent to three-fifths of the full rate and, if there are two or more widows, the amount payable to the widow as aforesaid shall be divided equally between the widows;

(*b*) to each legitimate or adopted son, on amount equivalent to two-fifths of the full rate until he attains eighteen years of age:

Provided that in the case of a legitimate son who is infirm and who is wholly dependent on the earnings of the insured person at the time of his death, dependants' benefit shall continue to be paid while the infirmity lasts,

(*c*) to each legitimate or adopted unmarried daughter, an amount equivalent to two-fifths of the full rate until she attains eighteen years of age or until marriage, whichever is earlier:

Provided that in the case of a legitimate or adopted unmarried daughter who is infirm and is wholly dependent on the earnings of the insured person at the time of his death, dependants' benefit shall continue to be paid while the infirmity lasts and she continues to be unmarried:

Provided further that if the total of the dependants' benefits distributed among the widow or widows and legitimate or adopted children of the deceased person as aforesaid exceeds at any time the full rate, the share of each of the dependents shall be proportionately reduced, so that the total amount payable to them does not exceed the amount of disablement benefit at the full rate.

9. In case the deceased person does not leave a widow or legitimate or adopted child, dependants. benefit shall be payable to the other dependants as follows:—

(*a*) to a parent or grand-parent, for life, at an amount equivalent to three-tenths of the full rate and if there are two or more parents or grand-parents, the amount payable to the parents or grand-parents as aforesaid shall be equally divided between them;

(*b*) to any other--

(*i*) male dependant, until he attains eighteen years of age,

(*ii*) female dependant, until she attains eighteen years of age or until marriage, whichever is earlier or if widowed until she attains eighteen years of age,

at an amount equivalent to two-tenths of the full rate provided that if there be more than one dependant under clause (*b*) the amount payable under this clause shall be equally divided between them.

THE SECOND SCHEDULE

[*See* section 2 (15*A*) and (15*B*)]

Serial No.	Description of injury	Percentage of loss of earning capacity
	PART I	
	LIST OF INJURIES DEEMED TO RESULT IN PERMANENT TOTAL DISABLEMENT	
1	Loss of both hands or amputation at higher sites	100
2	Loss of a hand and a foot ...	100
3	Double amputation through leg or thigh, or amputation through leg or thigh on one side and loss of other foot ...	100
	Loss of sight to such an extent as to render the claimant unable to perform any work for which eye sight is essential ...	100
	Very severe facial disfigurement	100
	Absolute deafness	100
	PART II	
	LIST OF INJURIES DEEMED TO RESULT IN PERMANENT PARTIAL DISABLEMENT	
	Amputation.—upper limbs (either arm)	
7	Amputation through shoulder joint ...	90
8	Amputation below shoulder with stump less than 20.32 c.m. from tip of acromion	80
	Amputation from 20.32 c.m. from tip of acromion to less than 11.43 c.m. below tip of olecranon	70

Sl. No.	Description of Injury	Percentage of loss of earning capacity
10	Loss of a hand or of the thumb and four fingers of one hand or amputation from 11.43 c.m. below tip of olecranon	50
11	Loss of thumb	30
12	Loss of thumb and its metacarpal bone ...	40
13	Loss of four fingers of one hand ...	50
14	Loss of three fingers of one hand ...	30
15	Loss of two fingers of one hand ...	20
16	Loss of terminal phalanx of thumb ...	20
	Amputation—lower limbs	
17	Amputation of both feet resulting in end-bearing stumps.	90
18	Amputation through both feet proximal to the metatarso-phalangeal joint	80
19	Loss of all toes of both feet through the metatarso-phalangeal joint	40
20	Loss of all toes of both feet proximal to the proximal inter-phalangeal joint	30
21	Loss of all toes of both feet distal to the proximal inter-phalangeal joint	20
22	Amputation at hip	90
23	Amputation below hip with stump not exceeding 12.70 c.m. in length measured from tip of great trenchanter.	80
24	Amputation below hip with stump exceeding 12.70 c m. in length measured from tip of great trenchanter but not beyond middle thigh	70
25	Amputation below middle thigh to 8.89 c m. below knee.	60
26	Amputation below knee with stump exceeding 8.89 c.m. but not exceeding 12.70 c m.	50
27	Amputation below knee with stump exceeding 12.70 c.m.	40
28	Amputation of one foot resulting in end-bearing ...	30
29	Amputation through one foot proximal to the metatarso-phalangeal joint	30
30	Loss of all toes of one foot through the metatarso-phalangeal joint	20
	Other injuries	
31	Loss of one eye, without complications, the other being normal	40
32	Loss of vision of one eye without complications or disfigurement of eyeball, the other being normal ...	30

Sl. No.	Description of injury	Percentage of loss of earning capacity
	Loss of—	
	A.—Fingers of right or left hand	
	Index finger	
33	Whole	14
34	Two phalanges	11
35	One phalanx	9
36	Guillotine amputation of tip without loss of bone ...	5
	Middle finger	
37	Whole	12
38	Two phalanges	9
39	One Phalanx	7
40	Guillotine amputation of tip without loss of bone ...	4
	Ring or little finger	
41	Whole	
42	Two phalanges	
43	One phalanx	
44	Guillotine amputation of tip without loss of bone ...	
	B.—Toes of right or left foot	
	Great toe	
45	Through metatarso-phalangeal joint	14
46	Part, with some loss of bone	3
	any other toe	
47	Through metatars- phalangeal joint	
48	Part, with some loss of bone	
	Two toes of one foot, excluding great toe	
49	Through metatarso-phalangeal joint	
50	Part, with some loss of bone	
	Three toes of one foot excluding great toe	
51	Through metatarso-phalangeal joint	
52	Part, with some loss of bone	
	Four toes of one foot excluding great toe	
53	Through metatarso phalangeal joint	9
54	Part, with some loss of bone	3

NOTE.—Complete and permanent loss of the use of any limb or member referred to in this Schedule shall be deemed to be equivalent of the loss of that limb or member.

THE THIRD SCHEDULE

(*See* Section 52A)

LIST OF OCCUPATIONAL DISEASES

Occupational disease	Employment
	PART A
Anthrax	Any employment— (*a*) involving the handling of wool, hair, bristles or animal carcasses or parts of such carcasses, including hides, hoofs and horns ; or (*b*) in connection with animals infected with anthrax ; or (*c*) involving the loading, unloading or transport of any merchandise.
Compressed air illness or its sequelae.	Any process carried on in compressed air.
Poisoning by lead tetra-ethyl	Any process involving the use of lead tetra-ethyl.
Poisoning by nitrous fumes	Any process involving exposure to nitrous fumes
Poisoning by organic phosphorus insecticides.	Any process involving the use or handling or exposure to the fumes, dust or vapour containing any of the organic phosphorus insecticides.
	PART B
Poisoning by lead, its alloys or compounds or its sequelae excluding poisoning by lead tetra-ethyl.	Any process involving the handling or use of lead ore or lead or any of its preparations or compounds except lead tetra-ethyl.
Poisoning by phosphorus or its compounds, or its sequelae.	Any process involving the liberation of phosphorus or use or handling of phosphorus or its preparations or compounds.
Poisoning by mercury, its amalgams and compounds, or its sequelae.	Any process involving the use of mercury or its preparations or compounds.
Poisoning by benzene, or its homologues, their amido and nitroderivatives or its sequelae.	Any process involving the manufacture, liberation, or use of benzene, benzene homologues and their amido and nitro derivatives.
Chrome ulceration or its sequelae.	Any process involving the use of chromic acid or bichromate of ammonium potassium or sodium or their preparations or the manufacture of bichromate.
Poisoning by arsenic or its compounds, or its sequelae	Any process involving the production, liberation or utilisation of arsenic or its compounds.

Occupational disease 'athological manifestations due to—	Employment
(*a*) radium and other radio-active substances,	Any process involving exposure to the action of radium, radio active substances or X-rays.
(*b*) X-rays.	
Primary epitheliomatous cancer of the skin.	Any process involving the handling or use of tar, pitch, bitumen, mineral oil, paraffine, or the compounds products or residues of these substances.
Poisoning by halogenated hydrocarbons of the aliphatic series and their halogen derivatives.	Any process involving the manufacture, liberation and use of hydrocarbons of the aliphatic series and their halogen derivatives.
Poisoning by carbon disulphide or its sequelae.	Any employment in— (*a*) the manufacture of carbon disulphide; or (*b*) the manufacture of artificial silk by viscose process; or (*c*) rubber industry; or (*d*) any other industry involving the production or use of products containing carbon disulphide or exposure to emanations from carbon disulphide.
Occupational cataract due to infra-red radiations.	Any manufacturing process involving exposure to glare from molten material or to any other sources of infra red radiations.
Telegraphist's Cramp	Any employment involving the use of telegraphic instruments.
Poisoning by manganese or a compound of manganese, or its sequelae.	Any process involving the use of, or handling of, or exposure to the fumes, dust or vapour of, manganese or a compound of manganese, or a substance containing manganese.
	PART C
Silicosis . .	Any employment involving exposure to the inhalation of dust containing silica.
Coal Miners' Pneumoconiosis.	Any employment in coal mining.
Asbestosis .	Any employment in— (1) the production of— (*i*) fibro cement materials; or (*ii*) asbestos mill board; or (2) the processing of ores containing asbestos.
Bagassosis . .	Any employment in the production of bagasse mill board or other articles from bagasse.'.

43. *Act not to apply to certain cases.*—No provision of this Act shall apply to and in relation to any payment which has been, or is being, or is required to be, made under the principal Act in respect of any employment injury sustained by an employee in any State or part thereof at any time before the date of the coming into operation of that provision and any such payment and any application, appeal or other proceeding for or relating to such payment pending before any authority immediately before such date shall continue to be governed by the provisions of the principal Act as they stood immediately before that date.

STATEMENT OF OBJECTS AND REASONS

The Employees' State Insurance Act, 1948, provides, *inter alia* for certain benefits to employees in case of sickness, maternity and employment injury and for certain other matters in relation thereto. Experience of the administration of the Act has disclosed certain difficulties in its working. The object of the present Bill is to remove such difficulties and to make the administration of the Act simpler. The major amendments proposed in the Bill are indicated below:—

(*a*) The wage limit for coverage of employees is being raised from Rs. 400 to Rs. 500 per month to secure benefits of the scheme for a larger number of employees.

(*b*) The existing definition of the term "employee" does not cover administrative staff engaged in sale, distribution and other allied functions. The difinition is being amended to cover such employees.

(*c*) The definition of the term "family" is being amended to include dependent parents of female insured persons; dependent parents of male insured persons are already included.

(*d*) The number of representatives of Parliament on the Employees' State Insurance Corporation is being raised from two to three with a view to include two Members from the Lok Sabha and one from the Rajya Sabha.

(*e*) Provision for the grant of funeral benefit, not exceeding Rs. 100, on the death of an insured person is being made for the first time.

(*f*) The scheme of maternity benifit is being enlarged.

(*g*) Provision for the taking over by the Employees' State Insurance Corporation of the administration of the medical benefit from State Governments is being made.

(*h*) The rate of disablement benefit is being increased.

Certain minor and formal amendments to the Act have also been proposed in the Bill.

2. The notes on clauses explain in detail the important provisions of the Bill.

A. K. SEN.

NEW DELHI;
The 7th August, 1965.

Notes on clauses

Clause 1.—This clause empowers the Central Government to stagger application of the Act to ensure systematic and gradual change over from the existing provisions.

Clause 2.—This clause seeks to clarify certain terms and expressions used in the Act and also to raise the wage-limit for coverage under the Act from Rs. 400 to Rs. 500 per month. Another change proposed by this clause is to bring within the scope of the definition of "seasonal factory" a factory which works for a period not exceeding 7 months in a year and is engaged during that period in any process of blending, packing or re-packing of tea or coffee or in such other manufacturing process as the Central Government may, by notification in the Official Gazette, specify.

Clause 3.—This clause seeks to insert a new section 2A which will make it obligatory on the principal employer to have his factory or establishment registered under the Act.

Clause 4.—The clause seeks to amend section 4 of the Act so as to empower the Central Government to appoint a Chairman and a Vice-Chairman of the Corporation and in addition to provide that none of the five persons to be nominated by that Government under clause (c) need be an official. This clause also seeks to provide that the Director General of the Corporation shall be its *ex-officio* member and that the number of representatives of Parliament on the Corporation shall be 3 instead of 2.

Clause 5.—This clause seeks to make amendments of a consequential nature in section 5 of the Act.

Clause 6.—This clause seeks to substitute section 7 of the Act. It provides for authentication of all orders and decisions of the Corporation by the signature of the Director General who will now be an *ex-officio* member of the Corporation and for the authentication of all other instruments issued by the Corporation by the signature of the Director General or such other officer of the Corporation as may be authorised by him.

Clause 7.—This clause seeks to raise the number of representatives of employers and employees on the Standing Committee from two to three and also provides that the Director General shall be an *ex-officio* member of this Committee.

Clause 8.—This clause seeks to provide that members of the Medical Benefit Council other than *ex-officio* members and those nominated by Government shall continue to hold office until the nomination of their successors is notified, notwithstanding the expiry of the normal term of their membership.

Clause 9.—This clause seeks to provide that a person shall cease to be a member of the Corporation when he ceases to be a Member of Parliament.

Clause 10.—This clause provides that the sanction of the Central Government as well as the Corporation will be obtained before a Principal Officer undertakes any work not connected with his office.

Clause 11.—This clause seeks to amend sub-section (3) of section 17 to provide that consultation with the Union Public Service Commission will be necessary in the case of certain classes of posts instead of posts with a certain maximum monthly pay.

Clause 12.—This clause seeks to omit sections 27 and 31 of the Act which are out of date.

Clause 13.—This clause makes a clarificatory amendment in section 36 of the Act.

Clause 14.—This clause makes an amendment of a consequential nature.

Clause 15.—This clause provides that no contribution shall be payable in respect of an employee whose average daily wages are below Rs. 1.50 instead of Re. 1.00 at present. It also seeks to omit sub-sections (4) and (5) of section 42 of the Act and to modify sub-section (2) thereof so as to make the liability to pay contributions co-terminus with the liability for payment of wages.

Clause 16.—This clause empowers the Corporation to frame Regulations fixing the date by which evidence of contributions having been paid is to be received by it.

Clause 17.—This clause seeks to introduce new sections 45A and 45B empowering the Corporation to determine in certain cases the amount of contributions payable in respect of employees of a factory or establishment on the basis of available information and providing that any contribution payable under the Act may be recovered as an arrear of land revenue.

Clause 18 —This clause empowers the Corporation to accept alternative evidence of sickness in cases where an insured person is unable to produce a medical certificate from a Medical Practitioner appointed under the Scheme. This clause further seeks to provide for periodical payments to an insured woman also in case of miscarriage or sickness arising out of pregnancy, confinement, premature birth of child or miscarriage.

Another amendment proposed by this clause is to provide for payment of an amount not exceeding Rs. 100 towards the expenditure on the funeral of a deceased insured preson.

Clause 19.—This clause simplifies the conditions for drawal of sickness benefit by providing that a person shall be qualified to claim such benefit during a benefit period if during the corresponding contribution period, weekly contributions in respect of him were payable for a minimum period of 13 weeks. The right to eligbility will accrue on payment of contributions for half the number of weeks in the first benefit period.

Clause 20.—This clause makes a consequential amendment.

Clause 21.—This clause provides for payment of sickness benefit for a maximum period of 56 days in any two consecutive benefit periods and makes certain other amendments of consequential nature.

Clause 22.—This clause provides that as in the case of sickness benefit, maternity benefit shall be payable if the insured woman has paid contributions for a minimum period of 13 weeks in a contribution period. The right to eligibiity will accrue on payment of contributions for half the number of weeks in the first benefit period.

This clause also provides for—

(*a*) payment of maternity benefit in the event of death of the insured woman or the child to her nominee or legal representative ;

(*b*) grant of maternity benefit for six weeks in case of miscarriage ; and

(*c*. grant of maternity benfit for an additional period of one month in case of sickness arising out of pregnancy, confinement, etc.

Clause 23.—This clause seeks to recast the existing section 51 relating to disablement benefit and introduces new sections 51A,

51B, 51C and 51D to simplify the adjudication of employment injury claims by making certain specific provisions in the Act.

Clause 24.—This clause seeks to recast the existing section 52 relating to dependants' benefit by specifying the share of each dependant in the Act itself and empowering the Corporation to decide the question of payment of benefit to dependants and rates applicable to them without reference to the Employees' Insurance Court.

This clause also introduces a new section 52A incorporating the provisions relating to the occupational diseases in the Workmen's Compensation Act, 1923 with suitable modifications.

Clause 25.—This clause makes changes of a consequential nature

Clause 26.—This clause seeks to replace the existing section 54 by a revised section 54 and a new section 54A providing for determination of questions connected with disablement by a Medical Board and for right of appeal against the Board's decision to a Medical Appeal Tribunal or an Employees' Insurance Court.

Clause 27.—This clause seeks to recast the existing section 55 so as to provide for review of decisions of Medical Boards and Medical Appeal Tribunals and for review of dependants benefit. This clause also specifies the circumstances in which a review of benefits may be made.

Clause 28.—This clause seeks to introduce a new section 59A enabling the Corporation to take over, in consultation with the State Governments concerned, the administration of medical care where it becomes necessary or desirable to do so.

Clause 29.—This caluse seeks to omit sections 66 and 67 with a view to provide the employers complete insurance cover.

Clause 30.—This clause makes amendment of a consequential nature to section 71 of the Act.

Clause 31.—This clause seeks to omit section 73H as a similar provision is proposed to be inserted by new section 99A.

Clause 32.—This clause, besides making certain amendments of a consequential nature, also empowers the Employees' Insurance Courts to direct the Corporation, if necessary, to have any disablement question considered by a Medical Board or a Medical Appeal Tribunal.

Clause 33.—This clause seeks to amend section 77 so as to provide for a time limit of three years for commencement of the proceedings before an Emplyees' Insurance Court.

Clause 34.—This clause seeks to make consequential amendments.

Clause 35.—This clause empowers the Director General to authorise an officer of the Corporation other than the Insurance Commissioner to institute or to sanction prosecutions under the Act

Clause 36.—This clause seeks to provide for consultation with the Corporation before exemption is granted by the appropriate Government to factories or establishments belonging to Government or a local authority.

Clause 37 —This clause introduces a new section 91A providing for grant of exemptions under the Act either prospectively or retrospectively.

Clause 38.—This clause amends section 95 so as to empower the Central Government to frame rules in regard to fillng of appeals before medical appeal tribunals or Employees' Insurance Courts and to provide that the Central Government will consult the Corporation while making rules under the Act.

Clause 39.—This clause amends section 96 so as to provide that the State Governments will also consult the Corporation while making rules under the Act.

Clause 40.—This clause seeks to empower the Corporation to make regulations in regard to certain additional matters necessitated by the other amendments made in the Bill.

Clause 41.—This clause seeks to introduce a new section 99A empowering the Central Government to remove difficulties in giving effect to the provisions of the Act.

Clause 42.—This clause seeks to replace the existing Schedules I and II by a new First Schedule and makes the following important changes therein:—

(a) The average daily wage will be calculated by dividing the standard wage of an insured person by 26, 13, 6 or 1 depending on whether he is monthly rated, fortnightly rated, weekly rated or daily rated.

(*b*) Average daily wage will need to be worked out ouly once in the first wage period in a contribution period. The same rate will apply for the whole contribution period.

(*c*) The number of wage groups for payment of contributions and grant of benefits has been increased from 8 to 9 to provide for the enhanced wage limit for coverage from Rs. 400 to Rs. 500 per mensem.

(*d*) A standard rate of sickness benefit is being fixed corresponding to each wage group. Calculation of the rate of benefit for each individual case will no longer be necessary.

(*e*) The rate disablement and dependants, benefit is being fixed at 25 per cent. over and above the sickness benefit rate, which is about half average wage.

(*f*) The rates of weekly contributions have been rationalised and marginal adjustments have been made in these rates. The revised rates of contribution as well as benefits have been rounded off to the nearest multiple of five paise.

Another change effected by this clause is the insertion of the Second and Third Schedules, which are new, giving lists of injuries resulting in permanent disablement and occupational diseases.

Clause 43.—This clause seeks to introduce a new section providing that the provisions of the amendment Act will not apply to any past or pending cases of payment in respect of any employment injury sustained before the commencement of the amendment Act and that the same will be governed by the provisions of the principal Act as they stood before the commencement of the amendment Act

FINANCIAL MEMORANDUM

The Employees' State Insurance Act, 1948 applies to a number of Central Government undertakings. Some of the amendments proposed in the Bill will have the effect of increasing the liability of the employers (including Central Government) for payment of contributions. Clause 2 (3) of the Bill seeks to increase the wage limit for coverage of employees from Rs. 400 to Rs. 500 per month. This involves payment of contribution by employers also in respect of employees who draw a monthly wage between Rs. 400 and Rs. 500. Clause 42 seeks to replace the existing Schedules I and II by a new First Schedule which provides for rationalisation of the rates of contribution payable by employers and employees. These rates have been rounded off to the nearest multiple of five paise and the rates of contribution payable by employers are in some cases higher than the existing rates. These proposals in so far as they concern the Central Government undertakings will thus involve increased expenditure from the consolidated Fund of India. It may, however, be added that the proposed changes in the rates of contribution will not affect the employers till the transitory provisions in Chapter VA of the Act are withdrawn. So long as this Chapter is in force, the employers in public and private sectors will pay the Employer's Special Contribution as leviable thereunder in lieu of the employer's contribution at the rates as laid down in the existing Schedule I to the Employees' State Insurance Act, 1948 or at the rates now proposed to be revised under the Bill. The liability of employers to pay contribution at the higher rates will, therefore, accrue only after some time. As regards the contribution payable in respect of employees who draw a monthly wage between Rs. 400 and Rs. 500, it may be stated that many of the Central Government undertakings have been exempted from the operation of the Act under section 90, since they provide benefits which are superior or substantially similar to those available under the Act. The Scheme is applied to such Government undertakings only as do not provide similar or superior benefits but as, it is being extended to new areas from time to time, the number of undertakings and employees covered goes on changing.

The additional liability of employers due to (*a*) the inclusion of employees who draw a monthly wage ranging between Rs. 400 and Rs. 500 and (*b*) the rounding off of the rates of employers' contribution, has been estimated at (*i*) Re. 0.36 per annum per covered employee and (*ii*) Rs. 1.19 per annum per covered employee respectively, *i.e.*, Rs. 1.55 in all per annum per covered

employees. The additional liability on account of inclusion of employees who draw a monthly wage between Rs. 400 and Rs. 500 will, however, be off-set to the extent the employers will get relief from their liability in respect of such employees under the Workmen's Compensation Act and the Maternity Benefit Act and the expenditure on medical treatment and sickness leave which are at present being granted.

As the number of undertakings and employees covered goes on changing from time to time, it is not possible to give an estimate of the total additional expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 38 of the Bill seeks to amend Section 95 of the Act to empower the Central Government to make rules in regard to the manner in which and the time within which appeals may be filed to medical appeal tribunals or Employees' Insurance Courts.

Clause 40 of the Bill seeks to amend Section 97 of the Act to empower the Corporation to make regulations in relation to certain additional matters. The additional matters relate *inter alia* to the manner in which a factory or establishment shall be registered, the levy of interest at a rate not exceeding six per cent. per annum on contributions due but not paid, the method of determining whether an insured person is suffering from any occupational disease, the qualifications of persons who may issue sickness certificates and constitution of medical boards and medical appeal tribunals.

The matters referred to in clauses 38 and 40 pertain to procedure, form or detail and the delegation of legislative powers is thus of a normal character.

S. L. SHAKDHER,
Secretary.